IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 17TH APRIL 2007 / 27TH CHAITHRA 1929

WP(Crl.).No. 80 of 2007(S)

PETITIONER:

SANILAN K.M, AGED 37,
S/O K.A.MAYOORAN, KUTTATTUSSERIL,
CHERANALOOR VILLAGE, PACHALAM P.O, ERNAKULAM.

BY ADV. SRI.K.SANIL KUMAR

RESPONDENTS:
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1. THE DISTRICT SUPERINTENDENT OF POLICE,
   MALAPPURAM.

2. THE CIRCLE INSPECTOR OF POLICE,
   THIROORANGADY POLICE STATION,
   MALAPPURAM.

3. THE SUB INSPECTOR OF POLICE,
   THENJIPALAM POLICE STATION,
   MALAPPURAM.

4. RAHIMA MELEKUDASSERY,
   'MAHARZ', CHARAPANTHODY HOUSE CHATHRATHODY
   PARAMBILPEEDIKA P.O., MALAPPURAM-676315.

5. MUKTHAR, AGED 22,
   S/O RAHIMA MELEKUDASSERY,
   -DO-

BY

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 17/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T. SANKARAN & S. SIRI JAGAN, JJ.

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W.P.(Crl) No. 80 OF 2007

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Dated this the 17th April, 2007

J U D G M E N T

Siri Jagan, J:

A very difficult situation arises in this case. The petitioner has approached this court seeking a writ of Habeas corpus stating that he fell in love with one Smt. Rahima who is a physically handicapped lady and that she is under wrongful confinement by respondents Nos. 4 and 5 . Respondent Nos. 4 and 5 are the mother and brother of the said Smt. Rahima .

2. As directed by this Court, the second respondent has produced before us the said Smt. Rahima. We had talked with her at length. She submits that she has no relationship of love with the petitioner and that the petitioner is only a good friend of hers. She is, to some extent, wrongfully confined by respondent Nos. 4 and 5 in the sense that she has been forced to marry against her wish, a person far elder in age to her having four children, it is submitted. She would submit that she has no intention to

continue the marital relationship with the said person and intends to seek divorce from him, for which the respondent Nos. 4 and 5 are not permitting her. She wants to get appropriate assistance to get divorce from her husband as the marriage has been totally against her wishes. We had occasion to talk to the 5th respondent also, who is the brother of Smt. Rahima. He admits that Rahima has been married to a person who had two children at the time of marriage and has now two more children. The said Smt. Rahima is not in illegal custody, he submits.

3. Taking into account the facts and circumstances of the case, we dispose of this Writ Petition with the following directions:

Since the said Smt. Rahima expressed her desire to go back to her house as she has nowhere else to go, she would be free to go to her house. However, the respondent Nos. 4 and 5 shall not in any way detain her against her wishes. If the said Smt. Rahima wants to get divorce, it would be open to her to take appropriate proceedings under her personal law to approach the appropriate court seeking divorce. Respondent Nos. 4 and 5 shall not in any way stand in her way in prosecuting such petition for divorce. The said Smt. Rahima would be entitled to seek the assistance of the petitioner or anybody else in getting divorce if she so wishes. But Smt. Rahima categorically asserts that she does not wish to go with the petitioner . As a major it would be open to the said Smt.

Rahima to decide that question according to her wishes. But we make it clear that the respondent Nos. 4 and 5 shall not in any way prevent Smt. Rahima from seeking appropriate reliefs from the appropriate court to get divorce from her husband if she wishes to do so.

With these directions, the Writ Petition is disposed of. Respondents Nos. 2 and 3 shall see that the respondent Nos. 4 and 5 do not stand in the way of the said Smt. Rahima initiating and prosecuting appropriate steps for getting divorce from her husband, if she so wishes. If the respondent Nos. 2 and 3 receives any complaint either written or oral from the said Smt. Rahima or on her behalf, the respondent Nos. 2 and 3 shall enquire into such complaint and take appropriate action in the matter to enable the said Smt. Rahima to initiate and prosecute appropriate proceedings to get divorce from her husband, without interference from respondents or anybody else.

Sd/-
K.T. SANKARAN,
JUDGE.

Sd/-
S. SIRI JAGAN,
JUDGE.

lk

/true copy/

P.A. TO JUDGE